



## Changes in Certain Office of Healthcare Programs Insurance Premiums

**AGENCY:** Office of the Assistant Secretary for Housing–Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** The Office of Healthcare Programs (OHP) announces proposed mortgage insurance premium (MIP) changes to the October 2, 2015, notice, for certain commitments issued or reissued beginning October 1, 2022. Under this Notice, MIP rates for mortgage insurance under the Federal Housing Administration’s (FHA) Multifamily Housing Insurance programs will not change (see the January 28, 2016, Federal Register). The proposed MIP change under the Office of Healthcare Programs will promote the President’s climate change initiatives. Lastly, this Notice will include the MIP rates for OHP’s Office of Residential Care’s (ORCF) Section 232, Fire Safety Equipment Loan program.

**DATES:** Comments are due on or before: **[Insert date 30 days from date of publication in the FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are invited to submit comments regarding this Notice. All submissions must refer to the above docket number and title. There are two methods for submitting public comments:

*1. Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at <https://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the author maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <https://www.regulations.gov> website can be viewed by other submitters and interested members of the public. Commenters should follow instructions provided on that site to submit comments electronically.

*2. Submission of Comments by Mail.* Members of the public may submit comments by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410-0500. Due to security measures at all federal agencies, however, submission of comments by standard mail often results in delayed delivery. To ensure timely receipt of comments, HUD recommends that comments submitted by standard mail be submitted at least two weeks in advance of the deadline. HUD will make all comments received by mail available to the public at <https://www.regulations.gov>.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

*No Facsimile Comments.* Facsimile (FAX) comments will not be accepted.

**Public Inspection of Public Comments.** All properly submitted comments and communications regarding this Notice submitted to HUD are available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** John Hartung, Director, Policy, Risk Analysis & Lender Relations Division, Office of Residential Care Facilities, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 1222 Spruce Street, St. Louis, MO 63103-2836; telephone: 314-418-5238 (this is not a toll-free number).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Section 203(c)(1) of the National Housing Act authorizes the Secretary to set the premium charge for insurance of mortgages under the various programs in Title II of the National Housing Act. The range within which the Secretary may set such charges must be between one-fourth of one percent per annum and one percent per annum of the amount of the principal obligation of the mortgage outstanding at any time. (See 12 U.S.C. 1709(c)(1)).

On October 2, 2015, HUD published a Notice in the Federal Register (80 FR 59809) announcing the MIP rates for FHA Multifamily, Health Care Facilities, and Hospital mortgage insurance programs that had commitments issued or reissued in FY 2016. Subsequently, on January 28, 2016, HUD Multifamily published a Notice in the Federal Register (81 FR 4926) announcing MIP rate reductions to promote affordable and green energy-efficient housing. HUD is now proposing rate reductions for certain Office of Healthcare Programs to achieve green and energy-efficiency buildings for the Office of Residential Care Facilities (ORCF), Section 232 program. A February 2017 article from Science Direct that studied energy consumption costs for healthcare facilities states that<sup>1</sup> “Healthcare facilities are considered major energy consumers due to their need for reliable electricity and thermal energy supplies for heating, ventilation, lighting, air conditioning and the use of medical and non-medical equipment.” In response to the President’s climate initiative, and global initiatives to combat climate change, and in-line with the Department’s and Administration’s goals to reduce energy consumption and utility costs throughout the building sector, rate reductions are proposed to promote healthy, green, and energy-efficient healthcare facilities.

HUD’s Multifamily Housing Mortgage Insurance regulation at [24 CFR 207.254](#) provides as follows:

Notice of future premium changes will be published in the Federal Register. The Department will propose MIP changes for multifamily mortgage insurance programs and provide a 30-day public comment period for the purpose of accepting comments on whether the proposed changes are appropriate.

This provision also applies to mortgages insured under the Section 232 Program (See 24 CFR 232.251).

Pursuant to the 30-day comment procedure, this Notice announces MIP changes for FY 2023, for certain programs authorized under the National Housing Act (the Act) (12 U.S.C. 1709(c)(1)), and specifically for the Section 232 program. These changes will become effective October 1, 2022.

## **II. This Notice**

This Notice announces that HUD is changing MIPs for FHA-insured loans on properties under specific Office of Healthcare insurance programs. In FY 2013, FHA increased MIPs to compensate for increased risk to the FHA-insurance fund after the housing market crisis. Over the past eight years since the MIP rate was adjusted, HUD has continued to improve underwriting standards to further mitigate risk to the FHA portfolio, including improved reviews of appraised values, heightened examination of quality of care history, and strengthened requirements for borrower and parent entity experience/capacity.

The proposed MIP changes reflect HUD's commitment to supporting the long-term viability and efficiency of its insured portfolio, in line with the President's climate agenda. They are also prudent in light of the financial health of the Section 232 portfolio and the favorable impact that the analogous MIP changes to the FHA Multifamily programs have had over the past five years.

### **A. Green and Energy-Efficient Healthcare Facilities**

Annual MIP will change from current rates generally between 45 and 77 basis points, to 25 basis points for certain Section 232, Office of Residential Care Facilities' FHA-insured loan types. This policy intends to encourage owners to adopt higher standards for construction, rehabilitation, repairs, maintenance, and property operations that are more energy efficient and sustainable than traditional approaches to such activities. Those measures will result in projects

with greater energy and water efficiency, reduced operating costs, improved indoor air quality and resident comfort, and reduced overall impact on the environment. To facilitate this, mortgage proceeds will be used to retrofit properties to meet the stringent efficiency standards required to access this lower MIP premium.

To qualify:

Upon application for FHA mortgage insurance, the owner must evidence that the project will achieve, an industry-recognized standard for green building certification. For properties that have already achieved a green building standard certification and that are refinancing with this lower MIP premium, proceeds must be used to complete further efficiency upgrades and thereby achieve the next-level green certification standards.<sup>1</sup>

Acceptable, independently verified standards include the Enterprise Green Communities Criteria, U.S. Green Building Council's LEED-Home, LEED-Highrise, LEED-Midrise, LEED-Lowrise, LEED-NC, LEED-Healthcare Facilities, EarthCraft Multifamily, Earth Advantage Multifamily, the National Green Building Standard (NGBS), Passive Building Certification or EnerPHit Retrofits certification from the Passive House Institute US (PHIUS), International Passive House Association, or the Passive House Institute, and Living Building Challenge Certification from the International Living Future Institute, or other industry-recognized green building standards in the sole discretion of HUD's Office of Residential Care Facilities.

Further, the owner must certify that it has achieved, or will pursue, achieve, and maintain a score of 75 or better on the 1-100 ENERGY STAR score, using EPA's Portfolio Manager for the Senior Care Community building type. The reasonableness of achieving and maintaining the specified, independent green building standard, and the

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<sup>1</sup> HUD recognizes that the owners of projects that become insured with this newly announced Green MIP rate may, in later years, seek refinancing of that loan. Subsequent program guidance will address procedures for continuing that Green MIP rate in the new loan.

score of 75 or better in Portfolio Manager, must be verified by the independent conclusion of the qualified assessor preparing the physical condition assessment, and supported by the physical condition assessment report and recommendations, the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) level II energy audit (required for existing structures only), and plans for new construction, or rehabilitation, repairs, and operations and maintenance. The physical condition assessment report submitted with the mortgage insurance application must include a certification from the architect, engineer, or certified energy auditor that the planned scope of work is reasonably sufficient to achieve and maintain the specified certification. Additionally, the owner must submit to HUD evidence that the specified, independent green building standard has been achieved, and provide a copy of the Portfolio Manager report showing building performance at or above 75, at the time those standards were achieved, and no more than 24 months after completion of new construction, substantial rehabilitation or renovations, or 24 months after break-even occupancy. The owner must submit the Portfolio Manager report annually to HUD showing that the property has maintained its efficiency performance at or above 75. HUD anticipates issuing implementation guidance via Mortgagee Letter or supplemental Notice. Additionally, the Borrower's obligations with respect to the reduced MIP will be set forth in the Borrower Regulatory Agreement, the non-compliance with which may result in HUD's pursuit of all available rights and remedies.

To ensure that the benefits of these MIP rates directly benefit the residential care properties and residents, lenders submitting applications for loans using this MIP rate are limited in the total loan fees they may charge on any loan greater than \$2 million, to no more than 5 percent of the insured loan amount. Loan fees include (a) origination and placement fees as permitted by the MAP Guide, *plus* (b) trade profit, trade premium or marketing gain earned on the sale of the GNMA security at a value above par, even if the security sale is delayed until after endorsement,

*minus* (c) loan fees applied by the Mortgagee to its legal expenses incurred in connection with loan closing. This 5 percent limitation on loan fees shall further apply to a later Interest Rate Reduction, if any, of the loan.

### **III. MIPs for FHA’s Office of Healthcare Programs Mortgage Insurance Programs effective on October 1, 2022.**

HUD is changing MIPs for FHA-insured loans for specific properties under The Office of Residential Care Facilities, Section 232 Mortgage Insurance program. The chart below details the MIP rates for each rate category, and each type of FHA mortgage insurance covered under this Notice.

This Notice also includes the upfront and annual MIP rates for the Office of Residential Care Facilities Section 232/223(i) Fire Equipment Safety Loan program. The MIP rates for that program are encompassed in [24 CFR 232.805](#) but were not specifically referenced in the most recent Notice addressing Section 232 MIP rates, so those 232/223(i) rates are being included here simply for clarity purposes.

<b>FHA Office of Health Care Facilities Insurance Premiums by Rate &amp; Category</b>				
<b>Category</b>	<b>Current Upfront Capitalized MIP* Basis Points</b>	<b>Green and Energy Efficient: Upfront Capitalized MIP* Basis Points, Effective 10-01-22</b>	<b>Current Annual MIP Basis Points</b>	<b>Green and Energy Efficient: Annual MIP Basis Points, Effective 10-01-22</b>
<b><u>Section 232 Healthcare Facilities (SNF, ALF, B&amp;C)</u></b>				
232 NC/SR Healthcare Facilities w/o LIHTC	100	25	77	25
232 NC/SR – Assisted Living Facilities with LIHTC	100	25	45	25
232/223(f) Refi for Healthcare Facilities w/o LIHTC	100	25	65	25
232/223(f) Refi for Healthcare Facilities with LIHTC	100	25	45	25
232/223(a)(7) Refi of Healthcare Facilities w/o LIHTC	50	25	55	25
232/223(a)(7) Refi of Healthcare Facilities with LIHTC	50	25	45	25

223(d) Operating Loss Loan for Healthcare Facilities	100	n/a	95	n/a
241(a) Supp. Loan for Healthcare Facilities w/o LIHTC	100	25	72	25
241(a) Supp. Loan for Healthcare Facilities with LIHTC	100	25	45	25
223(i) Fire Safety Equipment Loan	100	n/a	100	n/a
<b><u>Section 242 FHA Hospital Insurance Program</u></b>				
242 Hospitals	100	n/a	70	n/a
223(a)(7) Refinance of Existing FHA-Insured Hospital	50	n/a	55	n/a
223(f) Refinance or Purchase of Existing Non-FHA-Insured Hospital	100	n/a	65	n/a
241(a) Supplemental Loans for Hospitals	100	n/a	65	n/a

*\* Upfront premiums for the Office of Health Care Programs are capitalized and based on the first year's annual MIP for the applicable rate category and remain at 100 basis (one percent) as specified in [24 CFR 232.805](#), except for 223(a)(7) loans where the upfront rate remains at 50 bps as published in the 2015 FR Notice for FY16 MIP Rates. Up front and annual premiums for the Green/Energy program are noted above. MIP premiums are separate and apart from (and in addition to) the application fees.*

The MIP rates will become effective for FHA firm commitments issued or reissued on or after October 1, 2022. MIP rates will not be modified for any loans that close or reach initial endorsement prior to October 1, 2022. MIP rates will not be modified on FHA-insured loans initially or finally endorsed, in conjunction with Interest Rate Reductions, or in conjunction with Loan Modifications.

#### **IV. Finding of No Significant Impact.**

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of NEPA (42 U.S.C. 4332(2)(C)).

The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).



**Lopa P. Kolluri,**  
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*Office of Housing – Federal Housing Administration.*

**[Billing Code-4210-67]**

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